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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 4884 of 2007
Date of decision: 20.11.2007

Ram Chand Premi **...Petitioner**

Versus

Smt. Nawab Kaur **...Respondent**

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Ms. Alka Sarin, Advocate for the petitioner.

Mr. Shiv Kumar, Advocate for the respondent.

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RAJESH BINDAL, J.

The challenge in the present petition is to the order passed by learned Courts below in execution filed by the respondents. In the present case, the petitioner failed in the suit filed by him upto this Court. The suit was filed way back on June 10, 1988. In the same suit, the counter claim filed by respondent/decree holder was accepted and decree accordingly was passed in her favour. As the effort of the petitioner was somehow or the other to deprive the respondent/decree holder from the fruits of the decree passed in her favour, after dismissal of the appeal by this Court on December 03, 2003, the petitioner got a rent agreement from Raj Dulari on December 3, 2004 claiming that part of the property has been taken on rent by him from other co-owner. Accordingly, now he was in possession of the property as a tenant and cannot be evicted. However, it could not be satisfactorily replied as to how the other co-owners of the property, who were not in possession thereof could rent out the same to the petitioner. In execution also various frivolous objections were raised by the petitioner which were dismissed by the Executing Court and appeal filed by the petitioner against the same was dismissed being not maintainable. Considering the fact that no illegality could be pointed out in the impugned order passed by learned Courts below, learned counsel for the petitioner

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submitted that as on today, petitioner is in possession of the land over 400 sq. yards and the claim made by respondent/decree holder in the counter claim was for a lessor area and accordingly, the petitioner should not be dispossessed from the entire land rather only to the extent the decree has been passed by the Courts below in her favour. To this no possible objection could be raised by the respondent as it is only the decree passed by the Civil court, which has been upheld up to this Court, which is sought to be executed. However, the fact remains that some how or the other, petitioner does not want to part with the possession of the property inspite of loosing upto this Court.

For the reasons stated above, I do not find any merit in the present petition and the same is hereby dismissed. Learned Executing Court is directed to get the decree executed at the earliest keeping in view the fact that the respondent/decree holder is around 90 years of age.

November 20, 2007 **(Rajesh Bindal)**
Pka **Judge**